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valid because unreasonable; that a railroad company has the right to choose and use names for its stations without interference by the commission except in cases where a name so chosen materially detracts from the efficiency which the company is required to furnish to the public. *State v. Railroad Commission*, 125 Pac. 953.

The Michigan Law Review declares that the reports fail to disclose any authority precisely in point. In a closely analogous case, it was decided by the Iowa court that a railroad company should not be interfered with by the railroad commission in the management of the railroad, including the location and abandonment of stations, where there was no competent evidence that any patron of the road was deprived of reasonable facilities for transacting business. *State v. Ry. Co.*, 87 Iowa 644, 54 N. W. 461. In a similar case where the evidence failed to show that the order of the commission was reasonable and just, it was held that the order would not be enforced by the courts. *State v. Ry. Co.*, 86 Iowa 304, 52 N. W. 253. In the opinions rendered in these cases no authorities were cited, but the decisions seem to be well supported.—American Law Review.

CORRESPONDENCE.

Editor Law Register: Under the Texas Code (Sayles' Civ. Stats., arts. 2344-2347) a debtor may designate property to be levied upon by an officer levying an execution. It is suggested that a new section be inserted in the Virginia Code, as § 3587a, to read as follows:

"The officer shall first call upon the defendant, if he can be found, or if absent, upon his agent within the county or corporation, if known, to point out property within the county or corporation to be levied upon; and a levy shall first be made upon the property designated by the defendant or his agent; provided, that the defendant or his agent shall deliver the same into the officer's possession. If, in the opinion of the officer, the property so designated will not sell for enough to satisfy the execution and costs of sale, he shall notify the defendant or his agent thereof; whereupon the latter may make an additional designation. If no property be thus designated, or if an insufficient amount of property be designated, it shall be the duty of the officer to levy the execution upon the property of the debtor, subject to execution. A defendant in execution cannot point out property which he has sold, mortgaged or conveyed in trust, or property exempt from forced sale. Property which the judgment debtor has sold, mortgaged or conveyed in trust shall not be seized in exe-

cution, if the purchaser, mortgagee or trustee shall point out other property of the debtor in the county sufficient to satisfy the execution."

The purpose of such a provision is to avoid the unnecessary hardship upon the debtor of having certain of his property, where he has other property, taken without regard to its especial value to him. The sole right of the creditor is to have his money made out of the execution. The proposed statute does not in any way affect this right, but merely restrains the creditor and officer from wrongfully and unnecessarily working a hardship upon the debtor. Under the present statute the debtor may have property of peculiar fitness and association to him, and which cannot be replaced, yet which is of little market value; again he may have other property of equal value on the market and to him. It is no more than natural justice requires that he have the right to designate the latter property to be levied upon. The proposed provision would amount to an exemption, in particular cases, according to the choice of the debtor, and still permits the law to satisfy the claim of the creditor.

The effect of the proposed statute would not be to revolutionize the execution laws of this State. It was enacted as a law of Texas as early as 1873, and has since that time received a settled construction by numerous cases.

Such a provision would not be objectionable as affecting the title of purchasers at execution sales. The supreme court of Texas has construed the statute in that respect. In *Fatheree v. Williams* (Tex.), 35 S. W. 324, it is held: "In cases wherein it was sought to set aside sales under execution, an account of the failure of the officer to comply with the requirements of this article, it has been held that its provisions are directory only, and that, in the absence of a fraudulent combination between the officer and judgment creditor, it would not necessarily render a sale void."

In *Crain v. Hogan* (Tex.), 16 S. W. 1019, and other cases, it is held that the title of a purchaser is not affected by the failure of the officer to call upon the judgment debtor to point out property before the levy, where the purchaser is not connected with such irregularity.

As the provision concerns procedure, it should be brought to the attention of the profession. It is therefore submitted in the LAW REGISTER.

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